

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF THE SPECIAL MASTERS

No. 03-949V

Filed: February 12, 2010

Filed Redacted: March 12, 2010

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FELICIA BROWN, parent of \*  
TERRELL BROWN, a minor, \*

Petitioner, \*

v. \*

SECRETARY OF THE DEPARTMENT OF \*  
HEALTH AND HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

**DECISION**<sup>1</sup>

**VOWELL**, Special Master:

The above named petitioner<sup>2</sup> filed a Short-Form Autism Petition for Vaccine Compensation on May 5, 2003. Thereafter, petitioner failed to file many of the medical records and/or a “Statement of Compliance with Phase One Medical Records Production” as ordered by the undersigned on January 15, 2009.<sup>3</sup> I granted petitioner’s attorney’s motion to withdraw from this case on August 20, 2009, and ordered petitioner to provide a status report to the court. A copy of the August 20, 2009 order was resent to petitioner on October 26, 2009. My law clerk spoke with petitioner via telephone on October 27, 2009. At that time Ms. Brown declined to provide the information

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), I have redacted footnote 2 of this decision.

<sup>2</sup> The court’s efforts to contact petitioner indicate several possible addresses for her. She was unwilling to confirm her address during her October 27, 2009 telephone conversation with my law clerk, but returned a message left at the phone number listed for the following address, which is not petitioner’s address of record. Accordingly, the clerk is instructed to send two copies of this order to petitioner: one to her address of record, and a second to:

[Redacted]

<sup>3</sup> I note that the medical records filed on May 19, 2009, which include a vaccination record and a letter from a clinical psychologist unrelated to diagnosis of an ASD, are insufficient to meet the requirements of my January 15, 2009 order.

requested in the order but stated that she would call back. To date Ms. Brown has not contacted the court again. On November 17, 2009, I granted petitioner an additional thirty days to provide a status report. Petitioner failed to respond to the order. On December 30, 2009, I ordered petitioner to file further medical records in this case or show cause by January 29, 2010, why this case should not be dismissed for failure to prosecute. Petitioner failed to respond to that order as well.

The undersigned warned petitioner that noncompliance with court orders would not be tolerated and could lead to dismissal of petitioner's claim. See Order filed November 17, 2009; Order filed December 30, 2009. Further the undersigned warned petitioner in the court's December 30, 2009 order that "[f]ailure to follow court orders, as well as failure to file medical records or an expert medical opinion, shall result in dismissal of petitioner's claim." Order filed December 30, 2009 (citing *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b)).

Petitioner has failed to file sufficient medical records or the opinion of an expert to support petitioner's claim in the instant case.<sup>4</sup> Additionally, petitioner has failed to respond to several of the court's orders in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioner's claim for failure to prosecute, failure to comply with the Vaccine Rules, and failure to comply with the court's orders. The Clerk shall enter judgement accordingly.

**IT IS SO ORDERED.**

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**Denise K. Vowell**  
Special Master

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<sup>4</sup> The Vaccine Act provides that a special master cannot find that a petitioner has proven her case by a preponderance of the evidence based upon "the claims of a petitioner alone, unsubstantiated by medical records or medical opinion." 42 U.S.C. § 300aa-13(a). Petitioner's failure to file sufficient medical records has prevented the undersigned from addressing any aspect of the merits of petitioner's claim.